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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/728,794

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7590 09/25/2007  
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EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

09/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/728,794	<b>Applicant(s)</b> ROWE ET AL.	
	<b>Examiner</b> Michael Van Handel	<b>Art Unit</b> 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13,14 and 17-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13,14 and 17-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Miscellaneous*

1. Please note that the examiner of record has changed.

### *Response to Amendment*

1. This action is responsive to an Amendment filed 3/16/2007. Claims **13, 14, 17-26** are pending. Claims **13, 14, 17-26** are amended. Claims **1-12, 15, 16, 27-30** are canceled.

### *Response to Arguments*

1. Applicant's arguments with respect to claim **13** have been considered, but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **13, 14, 17-20, 22-26** are rejected under 35 U.S.C. 102(e) as being anticipated by Gordon et al.

Referring to claim **13**, Gordon et al. discloses an information distribution system delivering a digital data stream over a large geographic area wherein the digital data stream delivers localized broadcast-quality television signals along with interactive content to a plurality of remote locations within the large geographic area, comprising:

- a network operations center (head end processing portion 400) providing television programming directed to the large geographic area (p. 6, paragraphs 61, 62; p. 8, paragraph 85; & Fig. 4), local television programming (p. 8, paragraph 85), and interactive content to create a digital data stream (p. 3, paragraphs 35, 40 & p. 8, paragraph 86);
- a distribution system transmitting the digital data stream from the network operations center to the remote locations (p. 1; 2, paragraph 13 & Fig. 4);
- a device located at each remote location for receiving the digital data stream, the device transforming data in the data stream into a television signal that includes national programming, local programming, and interactive content (p. 3, paragraph 40);
- a set top application receiver (Fig. 2) to receive and process the television signal to be displayed to viewers (p. 3, paragraph 42), wherein the interactive content enables viewers to select displayed items to retrieve additional information or to implement actions (p. 4, paragraphs 49, 50 & p. 11, paragraph 109); and
- a return network to receive, communicate, and process transactional information from the viewer to provide interactive capability (p. 3, paragraph 36; p. 4, paragraph 50; & p. 11, paragraph 109).

Referring to claim **14**, Gordon et al. discloses the invention of claim 13, wherein the interactive content includes services for purchase of goods and services from commercial providers (p. 3, paragraph 36; p. 4, paragraph 50; & p. 11, paragraph 109).

Referring to claim **17**, Gordon et al. discloses the invention of claim 13, wherein the interactive content includes data that is manipulated by the set top application receiver to obtain additional interactive content or television programming (p. 3, paragraph 40; p. 4, paragraph 50; p. 8, paragraphs 85-87; & p. 11, paragraph 109).

Referring to claim **18**, Gordon et al. discloses the invention of claim 13, wherein the media within the broadcast-quality television signal includes full motion video and is suitable for display on the television at about 24 or about 30 frames per second (p. 2, paragraph 33 & Fig. 1).

Referring to claim **19**, Gordon et al. discloses the invention of claim 13, wherein the interactive content is not still pictures overlaid on a television program (p. 4, paragraph 50 & p. 11, paragraph 109).

Referring to claim **20**, Gordon et al. discloses the invention of claim 13, wherein the interactive content includes still graphics (p. 2, paragraph 33 & Fig. 1).

Referring to claim **22**, Gordon et al. discloses the invention of claim 13, wherein the interactive content includes still graphics (p. 2, paragraph 33 & Fig. 1) and a pop-up video clip (the examiner notes that, if a user selects the video barker object 120, a new stream is provided to the user in which a full screen resolution or a promotional screen other than the video barker is displayed)(p. 4, paragraph 50 & Fig. 1).

Referring to claim **23**, Gordon et al. discloses the invention of claim 13, wherein the interactive content includes a scroll bar (p. 2, paragraph 33 & Fig. 1).

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Referring to claim **24**, Gordon et al. discloses the invention of claim 13, wherein the interactive content includes items that may be dynamically tailored interactively by a viewer (p. 6, paragraph 60 & p. 15, paragraphs 147, 148).

Referring to claim **25**, Gordon et al. discloses the invention of claim 13, wherein the interactive content includes broadcast quality television rather than still graphics (p. 11, paragraph 109).

Referring to claim **26**, Gordon et al. discloses the invention of claim 13, wherein the interactive content includes broadcast quality television and still graphics (Fig. 1).

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim **21** is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon et al. in view of Townsend et al.

Referring to claim **21**, Gordon et al. discloses the invention of claim 13. Gordon et al. further discloses an audio barker associated with the video barker (p. 15, paragraph 142). Gordon et al. does not specifically disclose that the interactive content includes still graphics with an audio voice over; however, Townsend et al. discloses a still video being displayed with an audio track containing narrative, music, sound effects or a mix of all three (p. 4, 5, paragraph 60). It would have been obvious to one of ordinary skill in the art at the time that the invention

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was made to modify the video barker of Gordon et al. to include a still video, such as that taught by Townsend et al. in order to save bandwidth (Townsend et al. p. 4, paragraph 60).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVH

  
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